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22 July 1977

MEMORANDUM FOR: The Director of Central Intelligence

THROUGH : Dr. Robert R. Bowie *RRB*
Deputy to the DCI for National Intelligence

FROM :
Deputy Director, Office of Geographic and
Cartographic Research

SUBJECT : NIE 2-1-77: LAW OF THE SEA: LIKELIHOOD AND IMPLICATIONS
OF FURTHER EXPANSION OF NATIONAL OCEANIC CLAIMS IF A
TREATY PROVES NON-NEGOTIABLE

Action Requested

1. That you approve this NIE at the NFIB meeting scheduled for Tuesday, 26 July as recommended in paragraph 6 below.

Background

2. This Estimate was requested in late April 1977 by Ambassador Elliot L. Richardson, the chief US negotiator at the Law of the Sea (LOS) Conference. In preparing the draft, we used inputs not only from the Intelligence Community but from non-intelligence components of the government (members of the US negotiating team at the LOS conference, State Department's Law of the Sea Office, DoD/ISA, FEA and EPA) and from academic consultants as well. The final draft has been thoroughly worked over within the Intelligence Community in coordination meetings lasting three and a half days.

3. The principal CIA analysts who worked on this Estimate with the undersigned were was the cartographer in charge of producing the maps and graphics.

Problems Encountered During Preparation

4. On several occasions during preparation of this Estimate substantial pressures were exerted by one or two policy and operating officials of the government to influence the Intelligence Community's judgments. These pressures, however, now appear to have receded, and the problem to have resolved itself.

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Controversial Issues

5. Within the Intelligence Community there are, to our knowledge, only three points at issue in the final draft -- all three of them being State/INR dissents. The language of these dissents is far weaker than the several policy and operating officials of State who have opposed the present draft wanted that language to be. INR pretty clearly has refused to go along with these policy and operating officials. Specifically, the three dissents are as follows (each of the dissents applies both to the Key Judgments section and to the appropriate paragraph in the body of the text):

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(a) Key Judgments, page 2 bottom and page 3 top, first tic under "Consequences of a Treaty." (Body of text -- corresponding changes in paragraph 58.)

State/INR proposes that the portion of your draft underlined in green beginning on the bottom of page 2 read as follows:

" -A comprehensive treaty acceptable to the US would clearly inhibit new geographical or functional claims. While such a treaty would not totally prevent new claims, it would be evidential of principles of customary international law to which a majority of states had agreed. Most states would comply with the treaty's terms protecting navigation and overflight, except in the few instances where to do so would cause them major injury."

Comment: The problem here is one of tone. State/INR wants a stronger statement concerning the degree to which a treaty would inhibit claims than the representatives of most of the other intelligence agencies who worked on the NIE are willing to accept. Analysts of the CIA and the Department of the Treasury are most strongly opposed to accepting the State/INR language. DIA and the intelligence arms of the services would probably be willing to compromise on this one.

(b) Key Judgments, page 5, first tic on page. (Body of text -- corresponding changes in paragraph 64.)

State/INR proposes that the word "significantly" be added to line 3 on the top of page 5, as is indicated in green ink on your draft.

Comment: You provided us brief comments (herewith attached) on an earlier draft of this paragraph of the NIE, which had included the word "significantly." In your suggestions for changes, you left out the word, so we did the same thing in the final draft. This caused no great argument in our coordination sessions, but it is now evidently a point on

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which State/INR wishes to stick. We were happy to delete the word "significantly" because in most contexts it is meaningless. Because it is meaningless, the point is also not worth much argument. The draft would be acceptable to us with or without the word.

(c) Key Judgments, page 7, lines 5-11. (Body of text -- corresponding changes in paragraph 81.)

State/INR proposes that the portion of your draft underlined in green on page 7 (lines 5-11) read as follows:

"This reduced freedom of movement would be critical in some instances. While in a serious crisis this reduction in mobility could be overcome if the US were willing to pay the price, failure to obtain treaty protections on straits, archipelagos and economic zones would narrow the range of diplomatic options available to support U.S. foreign policy objectives."

Why?
Comment: The conclusion in the same paragraph of the Key Judgments that it would be substantially more difficult for the US to uphold its right to freedom of movement without a treaty is already quite strong. It is difficult to envisage a situation in which this reduced freedom of movement would truly be critical to US interests for the foreseeable future. Analysts of the CIA and the Department of the Treasury are ~~strongly opposed~~ to accepting the proposed State/INR language. The working level representatives of DIA and the intelligence arms of the services also did not accept the proposed State/INR language in our coordination meetings. We are informed, however, that the senior DIA and service representatives probably will accept the State/INR language when it is discussed at the NFIB meeting.

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Recommendations

6. We recommend that your basic position at the NFIB meeting be to approve the final draft of the NIE as it stands. Within this general framework, we recommend the following positions on the three State/INR dissents:

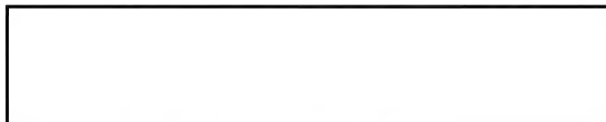
(a) On the first dissent, to support the language in the present final draft and to suggest, after appropriate discussion, that State/INR make a dissenting statement in the Estimate if it wishes.

(b) On the second dissent, to give in to State and agree to put the word "significantly" back into the text.

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(c) On the third dissent, to support the language in the present final draft and to suggest, after appropriate discussion, that State/INR make a dissenting statement in the Estimate if it wishes. Furthermore, to maintain this position even if the DIA and the intelligence arms of the three services support the Department of State/INR.



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Chairman of the Estimate

Attachment:
a/s

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177-8223

6 JUL 1977

MEMORANDUM FOR: Deputy to the DCI for National Intelligence
FROM: Director of Central Intelligence
SUBJECT: NIE 2-1-77: Law of the Sea

I have reviewed very briefly the key judgments section of the new NIE on the Law of the Sea. My reaction concentrates on page 2:

a. The paragraph on consequences of a collapse of negotiations and no treaty comes to what sounds like a reasonable conclusion. I would like to suggest, however, that rather than state fairly categorically that "...there would be a significantly greater expansion of claims on..." we simply state that in the absence of a new treaty there would be a number of pressures for states to expand their claims, e.g., the failure of the negotiations itself would make them feel they had to move before it was too late; the probability of the United States beginning deep sea activity would make others feel they have to protect their long-term interests by expanding their ocean claims; the general hardening of North/South relationships would make southern nations want to offset deep sea mining activities of the developed countries. On the other hand, there would be some pressures that would inhibit such expansion of claims, e.g., few other countries than the United States have any capability to develop deep-sea mining; etc. On balance, the Intelligence Community believes that while there would be no rush in the extensive new claims, there would in the long term be a greater expansion of claims than if we'd had a treaty.

What happened

b. Similarly, in the paragraph on consequences of a partial treaty, I am wary of saying "we do not believe that it is possible to negotiate a partial treaty..." rather than pointing out that since most of the countries involved in signing the treaty are developing nations and that they have taken the following positions; and that, etc., we on balance believe it's unlikely that a partial treaty can be negotiated.

? Left out also?


STANSFIELD TURNER

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*see DCI notes on
second page as / 3.*

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